IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

WP(C).No. 7590 of 2006(C)

PETITIONER:

P.R. VALSALA, AGED 56 YEARS,
W/O. N. GOPALAKRISHNAN NAIR,
RESIDING AT EDATHOTTATHIL HOUSE,
MOOLAVATTOM, KOTTAYAM.

BY ADV. SRI.MVS.NAMBOOTHIRY

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, GENERAL
EDUCATION DEPARTMENT, SECRETARIAT, TRIVANDRUM.

2. THE ACCOUNTANT GENERAL (A & E)
KERALA & LAKSHADWEEP, ACCOUNTANT GENERAL'S
OFFICE, TRIVANDRUM.

3. THE DY.DIRECTOR OF EDUCATION,
KOTTAYAM.

4. THE ASST.EDUCATIONAL OFFICER,
KOTTAYAM EAST.

5. THE HEADMASTER, ST.JOHN'S U.P.S VELOOR,
KOTTAYAM.

BY ADV. SRI.SURIN GEORGE IPE
GOVERNMENT PLEADER SMT. M.R. SREELATHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23 /11/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO.7590 OF 2006

APPENDIX

EXT.P1: COPY OF THE JUDGMENT IN O.P.NO.21960OF 2001 DTD 25.6.2003.

EXT.P2: COPY OF THE JUDGMENT IN W.P.(C) NO.7136/04 DTD 16.8.05.

EXT.P3: COPY OF THE REPLY SENT BY THE HEADMASTER TO THE COUNSEL FOR THE PETITIONER.

EXT.P4: COPY OF THE LETTER DTD 9.11.2005.

EXT.P5: COPY OF THE ORDER IN CCC NO.28/06 DTD 23.2.2006.

EXT.P6: COPY OF THE ORDER IN CCC NO.35 OF 2006 DTD 11.1.2006.

TRUE COPY

PA TO JUDGE.

S. SIRI JAGAN, J.

W.P.(C)No. 7590 OF 2006

Dated this the 23rd ay of November, 2007

JUDGMENT

The petitioner retired as a UPSA. In respect of 1992 pay revision, she filed reoption, which was accepted and her pay was revised and refixed. When objections were raised, the petitioner filed W.P.(C) No.21960 of 2001 along with other teachers and by Ext.P1 judgment, this Court declared that her reoption is valid. A further direction was given to disburse any amount, if withheld. Subsequently, the Government issued G.O. (P) No.206/2003. Apprehending action on the basis of the said Government order, the petitioner filed W.P. (C) No.7136 of 2004 which resulted in Ext.P2 judgment. After her retirement, respondents 3 and 4 took the stand that in view of G.O. (P) No.206/2003, the petitioner is entitled to benefit of reoption only from the date of filing of reoption and not from the date of effect of reoption. On that ground liability was fixed as per Ext.P4 and the same was sought to be recovered from the DCRG due to the petitioner.

Although the petitioner took the stand that this is in violation of Exts.P1 and P2 judgments and filed contempt cases, the same were closed holding that the petitioener's remedy is to challenge the liability fixed against her. It is under the above circumstances, the petitioner has challenged Ext.P4 in this writ petition. The petitioner submits that her case is squarely covered by the decision in **State of Kerala and others** Vs. **Lissy Joseph. M.** **[2006 (1) KLJ 566]**.

2. I have heard the learned Government pleader also. The learned Government pleader would submit that in the said decision relied upon by the petitioner what has been directed is adjustment only and therefore the same is not applicable to the petitioner's case.

3. I have considered the rival contentions in detail. On a reading of the above judgment, it is clear that this Court has held that the benefit of pay revision is intended to be given from the date of effect of reoption and not from the date of actual filing of reoption. That being so, I am satisfied that the petitioner's case is squarely covered by the said decision.

4. In the above circumstances, Ext.P4 is quashed

holding that the petitioner is entitled to benefits of pay revision from the date of effect of reoption. The pensionary benefits of the petitioner shall be released within a period of one month from the date of receipt of a copy of this judgment.

The writ petition is allowed as above.

S. SIRI JAGAN, JUDGE

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